

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN STEVEN BIZARRE,	:	CIVIL ACTION NO. 1:18-CV-48
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
NANCY A. BERRYHILL,	:	
Acting Commissioner of the	:	
Social Security Administration,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 4th day of March, 2019, upon consideration of the appeal (Doc. 1) of plaintiff John Steven Bizarre (“Bizarre”) from the adverse decision of the Acting Commissioner of the Social Security Administration (“Commissioner”), and the report (Doc. 24) of Magistrate Judge Joseph F. Saporito, Jr., recommending the court deny Bizarre’s appeal and affirm the decision of the Commissioner, and further upon consideration of Bizarre’s objections (Doc. 25) to the report and the Commissioner’s response (Doc. 26) thereto, and for the reasons stated in the court’s accompanying memorandum of today’s date, it is hereby ORDERED that:

1. The court declines to adopt the magistrate judge’s report (Doc. 24) to the extent it recommends that the court reject Bizarre’s claim under the Appointments Clause of the United States Constitution for failure to raise same before the Commissioner or the administrative law judge in the first instance.
2. The Clerk of Court is DIRECTED to enter judgment in favor of Bizarre and against the Commissioner as set forth in the following paragraph.

3. The Commissioner's decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new hearing and issue a new decision in accordance with this order and the court's memorandum of today's date. The new hearing shall be conducted by a different administrative law judge who has been properly appointed in accordance with the Appointments Clause of the United States Constitution.
4. The Clerk of Court shall thereafter CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania